

1213 (3d Cir. 1988)). *See also Berry v. Sullivan*, 738 F. Supp. 942, 944 (W.D. Pa. 1990) (if supported by substantial evidence, the Commissioner’s decision must be affirmed, as a federal court may neither reweigh the evidence, nor reverse, merely because it would have decided the claim differently) (*citing Cotter v. Harris*, 642 F.2d 700, 705 (3d Cir. 1981)).²

² Plaintiff raises a single argument on appeal: that there are apparent conflicts between her residual functional capacity (“RFC”) finding, which limits her to jobs where she “is able to understand and follow simple instructions,” and the jobs identified by the vocational expert (“VE”), which all require a reasoning level of 3. (Doc. No. 9). At the last stage of the sequential analysis, the Administrative Law Judge (“ALJ”) concluded that, given Plaintiff’s age, education, work experience, and RFC, there are jobs that exist in significant numbers in the national economy that she is able to perform, such as call-out operator, charge clerk, and telephone information clerk. (R. 31). Plaintiff argues there are apparent and unresolved conflicts between the testimony of the VE and the information contained in the Dictionary of Occupational Titles (“DOT”) as it relates to all of these identified jobs. (Doc. No. 9 at 5-6).

“The DOT is a vocational dictionary that lists and defines all jobs available in the national economy and specifies what qualifications are needed to perform each job.” *McHerrin v. Astrue*, No. 09-2035, 2010 WL 3516433, at *3 (E.D. Pa. Aug. 31, 2010) (citing SSR 00-4p, 2000 WL 1898704 (Dec. 4, 2000)). Among other qualifications, jobs are assigned a General Educational Development (“GED”) level, which includes a reasoning level from 1 to 6. Jobs with a reasoning level of 3 require that an employee “[a]pply commonsense understanding to carry out instructions furnished in written, oral, or diagrammatic form [and] [d]eal with problems involving several concrete variables in or from standardized situations.” DOT, App. C, § III.

Plaintiff’s arguments notwithstanding, there is no bright-line rule that a reasoning level of three conflicts with a limitation to “simple instructions.” *See Zirnsak v. Colvin*, 777 F.3d 607, 618 (3d Cir. 2014); *Hess v. Comm’r*, 931 F.3d 198, 210-11 (3d Cir. 2019). Indeed, the Third Circuit has expressly declined to find that there is a *per se* conflict between jobs with a limitation to simple, routine tasks, and jobs requiring level 3 reasoning. *See Zirnsak*, 777 F.3d at 618. Further, the Circuit has stated that “[a] limitation to ‘simple tasks’ is fundamentally the same as one ‘to jobs requiring understanding, remembering, and carrying out only simple instructions and making only simple work-related decisions[.]’” *Hess*, 931 F.3d at 210 (quotation omitted). The Circuit Court has explained that remand is not necessary in such cases where the ALJ discharged his or her duty to ask the VE whether his or her testimony was consistent with the DOT on the record and where the following factors were met: (1) the claimant did not seriously argue an

Therefore, IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment (Doc. No. 8) is DENIED and that Defendant's Motion for Summary Judgment (Doc. No. 11) is GRANTED.

s/Alan N. Bloch
United States District Judge

ecf: Counsel of record

inability to perform the jobs in question and the record supports a finding that he or she can perform such work; (2) the claimant did not point out the conflict at the hearing; and (3) the challenged jobs were only representative examples. *See Zirnsak*, 777 F.3d at 618-19. Plaintiff does not address any of these factors. (Doc. No. 9).

Considering this, the Court finds remand is unwarranted. To begin with, the ALJ did ask the VE if her testimony was consistent with the DOT, and the VE responded that it was. (R. 64). The VE further stated she did not have to supplement her testimony in any areas. (*Id.*). Moreover, Plaintiff did not seriously argue an inability to perform the jobs in question, and the record supports a finding that she can perform such work. Indeed, Plaintiff's past work experience includes semi-skilled jobs all requiring a GED reasoning level of three, and Plaintiff stated that her ability to follow written and spoken instructions was "fine." (R. 30 (showing Plaintiff had past work as a title clerk (DOT # 203.582-066), a receptionist (DOT # 237.367-038), a bartender (DOT # 312.474-010), and as a caregiver (DOT # 354.377-014); R. 339). Plaintiff also primarily attributed her limitations to her physical impairments, and while she did note difficulty concentrating and mental impairments stemming from a stroke (R. 20, 22), she needed no special reminders to care for her personal needs or grooming and was able to prepare meals daily, perform light household chores, drive short distances, shop in stores, and manage money. (R. 334-37). Additionally, Plaintiff did not point out the conflict at the hearing, and the challenged jobs were only representative examples. (R. 31). Accordingly, the *Zirnsak* test has been met and remand is not necessary. 777 F.3d at 618-19.

The ALJ's findings and conclusions are supported by substantial evidence. Accordingly, the decision of the Commissioner must be affirmed.